

Amendment No. 1
to
WSDOT Contract Number K1131
Toll Back Office System Replacement
Between ETAN Industries, LLC
And
Washington State Department of Transportation
for
Changes to Key Personnel, Schedule Changes, and Indemnification

This Amendment 1 (Amendment) to that certain agreement entitled Contract Number K1131 (Contract), dated July 17, 2017 for Toll Back Office System Replacement is entered into by and between the State of Washington, **Department of Transportation (“WSDOT”)**, and **ETAN Industries, LLC (Vendor)**.

RECITALS

- A. Whereas, Section 21.9 of the Contract allows for changes to be made through amendment.
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- B. Whereas, WSDOT and Vendor agree that changes to Contract indemnification language, Guarantee Dates to Milestone 1 and Milestone 2, Qualifying Event and cost changes associated with Data Warehouse functionality transferred to Phase 2, and key personnel updates should be made.

AGREEMENT

NOW, THEREFORE, in consideration of the terms, conditions, and covenants contained herein, IT IS MUTUALLY AGREED THAT:

1. Section 15.6, Intellectual Property Indemnification is hereby deleted and replaced in its entirety with the following:

15.6 Intellectual Property Indemnification.

15.6.1 Vendor, at its expense, shall defend, indemnify, and save WSDOT and its authorized users harmless from and against any claims against WSDOT or its authorized users that any Product supplied hereunder, or WSDOT’s and its authorized users’ use of the Products within the terms of this Contract, infringes any patent, copyright, utility model, industrial design, mask work, trade secret, trademark, or other similar proprietary right of a third party worldwide. Vendor shall pay all costs of such defense and settlement and any penalties, costs, damages and attorneys’ fees awarded by a court or incurred by WSDOT and its authorized users provided that WSDOT:

15.6.1.1 Promptly notifies Vendor in writing of the claim, but WSDOT's failure to provide timely notice shall only relieve Vendor from its indemnification obligations if and to the extent such late notice prejudiced the defense; and

15.6.1.2 Cooperates and requires its authorized users to cooperate with Vendor in connection with the defense of the claim and all related settlement negotiations; provided, that such assistance shall not require WSDOT or its authorized users to expend funds.

15.6.2 If such claim has occurred, or in Vendor's opinion is likely to occur, WSDOT agrees to permit Vendor, at its option and expense, either to procure for WSDOT the right to continue using the Product or to replace or modify the same so that they become non-infringing and functionally equivalent. If a court enjoins use of the Product and Vendor determines that none of these alternatives is reasonably available, Vendor, at its risk and expense, will take back the Product and refund to WSDOT an amount equal to one hundred fifty percent (150%) of the amount WSDOT paid to Vendor for the Product. No termination charges will be payable on such returned Product. Further, in the event the Product has been installed less than one (1) year, Vendor shall refund all costs paid by WSDOT to Vendor associated with the initial installation.

15.6.3 Vendor has no liability for any claim of infringement arising solely from:

15.6.3.1 Modification of the Product by WSDOT or a third party without the prior knowledge and approval of Vendor; or

15.6.3.2 Use of the Product in a way not specified by Vendor.

15.6.4 Vendor retains liability for any claim of infringement that arises against Vendor's Product independently of any of the actions specified in **Section 15.6.3**.

2. Exhibit A to the Contract, Statement of Work 1, Section 8.3, Payment and Milestone Schedule and Price Table for Development and Implementation Work, is hereby replaced in its entirety and is attached hereto as Attachment 1,
3. Exhibit A to the Contract, Statement of Work 1, Section 8.5, is hereby renumbered to Section 8.4.
4. Exhibit G to the Contract, Contact Information, is hereby deleted and replaced in its entirety by Exhibit G-1, Contact Information, and is attached hereto as Attachment 2.
5. All other provisions and exhibits of the Contract, as amended, remain in full force and effect and are not altered or affected in any way unless specifically modified herein or by prior Change Order or amendment.

6. This Amendment shall be effective as of the date signed by WSDOT.

The signatories to this Amendment represent that they have the authority to bind their respective organizations to this Amendment.

IN WITNESS WHEREOF, the Parties hereto, having read this Amendment, including all attachments, in its entirety, do agree in each and every particular and intending to be legally bound have executed this Amendment .

**State of Washington
Department of Transportation**



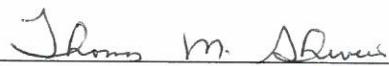
Signature

Edward Barry, P.E.
Director, WSDOT Toll Division

5.7.18

Date

ETAN Industries, LLC



Signature

Thomas M. Shivers
Executive Vice President, Business Development

4/30/18

Date

ATTACHMENTS:

Attachment 1: Statement of Work 1, Section 8.3, Payment and Milestone Schedule and Price Table for Development and Implementation Work,

Attachment 2: Exhibit G-1, Contact Information

K1131
EXHIBIT A, SOW 1, Section 8.3
Revised

Phase 1 Milestones	Project Sequence	Qualifying Event	Guaranteed Date	Payment Amount
Project Initiation	1	<i>WSDOT Approval of the Following:</i>	1/13/18	
		WSDOT Partnering Plan		\$ 286,760
		Initial Project Schedule		\$ 150,000
		Project Management Plan		\$ 150,000
		Web-based Project Collaboration Env		\$ 50,000
		Quality Management Plan		\$ 60,000
		Security Plan		\$ 50,000
		Subcontractor Management Plan		\$ 50,000
		Master Test Plan		\$ 100,000
		Work Place Safety Plan		\$ 20,000
		Project Office Space		\$ 360,000
		<i>Subtotal - Project Initiation</i>		\$ 1,276,760.00
Preliminary Design	2	<i>WSDOT Approval of the Following:</i>	6/15/18	
		Software Development Plan		\$150,000
		Installation Plan		\$ 138,000
		Requirements Traceability Matrix (Structure/format)		\$ 100,000
		Initial Core Team Training		\$ 189,800
		System Architecture		\$ 204,000
		Organizational Change Management Plan		\$ 100,000
		Communication Plan		\$ 100,000
		System Requirements Documents (SRD):		
		OBOS		\$ 120,000
		CBOS		\$ 120,000
		Accounting and Financial		\$ 100,000
		Reporting		\$ 200,000

Phase 1 Milestones	Project Sequence	Qualifying Event	Guaranteed Date	Payment Amount
		Collections		\$ 50,000
		IVR/Telephony		\$ 1,600
		Training Plan		\$ 104,800
		Data Migration Plan		\$ 155,000
		<i>Subtotal - Preliminary Design</i>		\$1,833,200
Final Design	3	<i>WSDOT Approval of the Following:</i>	11/26/2018	
		Configuration Management Plan		\$ 80,000
		Disaster Recovery Plan (DRP)		\$ 250,000
		Interface Control Documents:		
		Bundle A		\$ 200,000
		Bundle B		\$ 250,000
		Bundle C		\$ 250,000
		Collection ICDs		\$ 30,000
		IVR/Telephony ICDs		\$ 1,600
		Test Procedures:		
		Bundle A		\$223,000
		Bundle B		\$210,000
		Bundle C		\$210,000
		Collections Test Procedures		\$ 15,000
		Data Migration Specifications		\$ 370,000
		System Detailed Design Document (SDDD)		\$ 553,200
		CSC Operator Partnering Plan		\$ 80,000
		<i>Subtotal - Final Design</i>		\$ 2,722,800
Procurement	4	<i>WSDOT Approval of the Following:</i>	10/20/2018	
		Procurement Plan		\$ 436,600
		Hardware and Software Installed and Accepted:		
		Bundle A		\$ 300,000

Phase 1 Milestones	Project Sequence	Qualifying Event	Guaranteed Date	Payment Amount
		Bundle B		\$ 300,000
		Bundle C		\$ 150,000
		IVR and Telephony Components		\$ 1,600
		Third Party Hardware Manuals		\$ 26,600
		Third Party Software Manuals		\$ 26,600
		<i>Subtotal - Procurement</i>		\$1,241,400
Installation and Testing	5	<i>WSDOT Approval of the Following:</i>	11/19/18	
		Customer Website:		
		Wireframes		\$ 75,000
		Visual design mock-ups		\$ 50,000
		Security certification by independent firm		\$ 50,000
		Accessibility certification by independent firm		\$ 50,000
		Test Reports:		
		Component Acceptance Test Report		\$ 135,000
		Factory Acceptance Test Report		\$ 86,600
		Hardware Production Test Report		\$ 138,000
		Integration and Commissioning Test Report		\$ 82,000
		Security Test Report		\$ 98,200
		Performance Test Report		\$ 68,000
		Disaster Recovery Testing		\$ 68,200
		User Acceptance Test Report		\$ 133,000
		Operations Test Report		\$ 80,000
		Data Migration Preparations:		
		Development and Unit Testing Report		\$ 255,000
		Trial Migration Test Report		\$ 230,000
		Full Migration Test Report		\$ 360,000
		Transition Plan		\$ 85,000
		Successful completion of PCI Audit		\$ 100,000
		Successful completion of OCIO Audit		\$ 50,000
		Successful completion of SOC1 and SOC2 Audits		\$ 50,000
		System Administration Manual		\$ 53,600
		Post Go-Live Support Plan		\$ 63,000

Phase 1 Milestones	Project Sequence	Qualifying Event	Guaranteed Date	Payment Amount
		Maintenance Provisions: Maintenance Plan Maintenance and Service Manuals Maintenance Online Management System (MOMS) solution KPI Dashboard Annual Audit Plan <i>Subtotal - Installation and Testing</i>		\$ 106,600 \$ 106,600 \$ 100,000 \$ 220,000 \$ 35,000 \$2,928,800
Training	6	WSDOT Approval of the Following: Training Courseware and Training Materials Training Pilot Walkthrough User Acceptance Test Training Train the Trainers Course(s) Completed End-User Training Completed Readiness Plan Updated Training Materials Post Go-Live <i>Subtotal - Training</i>	11/21/2018	
				\$ 89,800
				\$ 56,600
				\$ 51,600
				\$ 46,600
				\$ 105,800
				\$ 30,000
				\$ 40,800
				\$ 421,200
Production Cut-Over	7	WSDOT Approval of the Following: System Go-Live Go-Live Report System Release Notes Hardware and Software Inventory <i>Subtotal - Production Cut-over</i>	No Later Than 12/1/2018	
				\$ 876,400
				\$ 475,800
				\$ 105,800
				\$ 155,000
				\$ 1,613,000
Phase 1 Acceptance	8	WSDOT Approval of the Following: Phase Acceptance (Letter of Request) - Release of 50% of Phase 1 retainage	No Later Than 2/1/2019	
				\$0
		Total - Phase 1		\$ 12,037,160

Phase 2 Milestones	Project Sequence	Qualifying Event	Guaranteed Date	Payment Amount
Final Design	3	<p>WSDOT Approval of the Following</p> <p>Disaster Recovery Plan with Data Warehouse</p> <p>Software Development Plan with Data Warehouse</p> <p>System Architecture with Data Warehouse</p> <p>Training Plan with Data Warehouse</p> <p>System Requirements Documents (SRD) - Data Warehouse</p> <p>Interface Control Documents:</p> <ul style="list-style-type: none"> Bundle A with Data Warehouse Bundle B Bundle C <p>Test Procedures</p> <ul style="list-style-type: none"> Bundle A with Data Warehouse Bundle B with Data Warehouse Bundle C with Data Warehouse <p>System Detailed Design Document (SDDD) Updated for Phase 2</p> <p><i>Subtotal - Final Design</i></p>	3/4/19	\$20,000 \$50,000 \$40,000 \$40,000 \$50,000 \$110,000 \$100,000 \$100,000 \$150,000 \$150,000 \$150,000 \$100,000 \$1,060,000
Procurement	4	<p>WSDOT Approval of the Following</p> <p>Hardware and Software Installed and Accepted</p> <ul style="list-style-type: none"> Bundle A Bundle B Bundle C <p>Third Party Hardware Manuals</p> <p>Third Party Software Manuals</p> <p><i>Subtotal - Final Design</i></p>	7/11/19	\$100,000 \$100,000 \$100,000 \$100,000 \$100,000 \$500,000
Installation and Testing	5	<p>WSDOT Approval of the Following</p> <p>Test Reports</p> <ul style="list-style-type: none"> Component Acceptance Test Report Factory Acceptance Test Report Hardware Production Test Report Integration and Commissioning Test Report Security Test Report Performance Test Report Regression Test Report Disaster Recovery Testing User Acceptance Test Report Operations Test/Parallel Test Report <p>Transition Plan with Data Warehouse</p> <p> System Administration Manual - Phase 2 Update and Data Warehouse</p>	11/15/19	\$100,000 \$70,000 \$50,000 \$70,000 \$50,000 \$75,000 \$50,000 \$60,000 \$60,000 \$40,000 \$150,000 \$140,000

State of Washington
Department of Transportation

Contract K1131 - ETAN
Statement of Work 1, Section 8.3
(Revised per Amendment 1)

Phase 2 Milestones	Project Sequence	Qualifying Event	Guaranteed Date	Payment Amount
		Post Go-Live Support Plan - Update for Phase 2 and Data Warehouse Maintenance Provisions: Maintenance Plan - Phase 2 Update and Data Warehouse Maintenance and Service Manuals - Phase 2 Updates and Data Warehouse Annual Audit Plan – Phase 2 Update <i>Subtotal - Installation and Testing</i>		\$100,000 \$100,000 \$70,000 \$85,000 \$1,270,000
Training	6	<i>WSDOT Approval of the Following</i> Training Courseware and Training Materials Training Pilot Walkthrough User Acceptance Test Training Train the Trainers Course(s) Completed End-User Training Completed Readiness Plan Updated Training Materials Post Go-Live <i>Subtotal - Training</i>	11/29/19	\$50,000 \$35,000 \$45,000 \$40,000 \$40,000 \$50,000 \$50,000 \$310,000
Production Cut-Over	7	<i>WSDOT Approval of the Following</i> System Go-Live Go-Live Report System Release Notes Hardware and Software Inventory Updated <i>Subtotal - Production Cut-Over</i>	No Later Than 12/1/2019	\$300,000 \$100,000 \$50,000 \$50,000 \$500,000
Phase 2 Acceptance	8	<i>WSDOT Approval of the Following</i> Phase 2 Acceptance (Letter of Request) - Release of 50% of Phase 2 retainage <i>Subtotal - Phase 2 Acceptance</i>	No Later Than 2/1/2020	\$0
Final Acceptance	9	<i>WSDOT Approval of the Following</i> Release Remaining Retainage from Phase 1 and Phase 2 after Six (6) Months of Continuous Production Operation within KPI Compliance <i>Subtotal - Final Acceptance</i>	No Later Than 8/1/2020	\$0

Phase 2 Milestones	Project Sequence	Qualifying Event	Guaranteed Date	Payment Amount
Total - Phase 2				\$3,640,000
Total - Development & Implementation SOW				15,677,160

Exhibit G-1
Contact Information
Revised per Amendment 1

WSDOT Contract Number: K1131

Contracting Officers

Only the Contract Signature Authority identified below is authorized to bind WSDOT.

<u>WSDOT CONTRACTING OFFICER</u>	Edward Barry, PE WSDOT Toll Division 401 2 nd Avenue S, Suite 300 Seattle, WA 98104 Phone Number: (206) 464-1299 Email Address: BarryEd@wsdot.wa.gov
<u>VENDOR CONTRACTING OFFICER</u>	Thomas M. Shivers ETAN Industries, LLC One Galleria Tower 13355 Noel Road, 21 st Floor Dallas, Texas 75240 Phone Number: (972) 677-6235 Email Address: tshivers@etanindustries.com
<u>VENDOR ADDRESS FOR PROCESS SERVICE</u>	ETAN Industries, LLC c/o CT Corporation 505 Union Ave SE, Suite 120 Olympia, WA 98501

Washington State Department of Transportation

Contract / Project Manager:	Jennifer Charlebois WSDOT Toll Division 401 2 nd Avenue S, Suite 300 Seattle, WA 98104 Phone Number: (206) 716-1106 Email Address: CharleJ@wsdot.wa.gov
Contract Administrator Mailing Address:	Rick Naten WSDOT Administrative Contracts Office P.O. Box 47408 Olympia, WA 98504 Phone Number: (360) 705-7741 Email Address 1: NatenR@wsdot.wa.gov Email Address 2: AdminContracts@wsdot.wa.gov

Contract Administrator Physical Address:	Name: Rick Naten WSDOT Administrative Contracts Office 310 Maple Park Ave SE 2B1, Olympia, WA 98501 Phone Number: (360) 705-7741 Email Address 1: NatenR@wsdot.wa.gov Email Address 2: AdminContracts@wsdot.wa.gov
Invoicing	Washington State Department of Transportation ATTN: WSDOT Toll Division Finance 401 2nd Avenue South, Suite 300 Seattle, WA 98104 Email Address: NguyeHu@wsdot.wa.gov

SOW No. 1 – Design and Implementation Phase
Washington State Department of Transportation:

SOW No. 1 Project Manager	Jennifer Charlebois Washington State Department of Transportation 401 2nd Avenue South, Suite 300 Seattle, WA 98104 Phone Number: (206) 716-1106 Email Address: CharleJ@wsdot.wa.gov
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Vendor: ETAN Industries

Project Executive:	Steve Levine ETAN Industries, LLC One Galleria Tower 13355 Noel Road, 21 st Floor Dallas, Texas 75240 Phone Number: (310) 909-3214 Email Address: slevine@etanindustries.com
Project Principal	Sterling Shepherd ETAN Industries, LLC One Galleria Tower 13355 Noel Road, 21 st Floor Dallas, Texas 75240 Phone Number: (972) 677-6233 Email Address: sshepherd@etanindustries.com
Quality Assurance Executive	Charlie Mitchell ETAN Industries, LLC 22 Colonial Drive Tillson, NY 12486 Phone Number: (914) 388-7168 Email Address: cmitchell@etanindustries.com

Project Manager	Maria Tally ETAN Industries, LLC 159 S Jackson St. Seattle, WA 98104 Phone Number: (206) 409-5125 Email Address: mtally@etanindustries.com
Quality Assurance Manager	Marisol Cheasman ETAN Industries, LLC One Galleria Tower 13355 Noel Road, 21 st Floor Dallas, Texas 75240 Phone Number: (407) 907-2249 Email Address: marisol.cheasman@etanindustries.com
Lead System Architect	Lance Diduck ETAN Industries, LLC 26 Broadway, Suite 941 New York, New York 10004 Phone Number: (917) 699-4955 Email Address: ldiduck@etanindustries.com
Operational Back Office Lead	Guy Duncan ETAN Industries, LLC One Galleria Tower 13355 Noel Road, 21 st Floor Dallas, Texas 75240 Phone Number: (201) 682-8637 Email Address: gduncan@etanindustries.com
Customer Relationship Management Lead	John Favre ETAN Industries, LLC 300 Spectrum Center Dr., Suite 1090 Irvine, California 92618 Phone Number: (206) 886-8357 Email Address: jfavre@etanindustries.com
Accounting System Lead	Sharon Sawyer ETAN Industries, LLC One Galleria Tower 13355 Noel Road, 21 st Floor Dallas, Texas 75240 Phone Number: (972) 677-6323 Email Address: ssawyer@etanindustries.com

Customer Website Development Lead	Beau Hoffman ETAN Industries, LLC One Galleria Tower 13355 Noel Road, 21 st Floor Dallas, Texas 75240 Phone Number: (858) 412-7769 Email Address: bhoffman@etanindustries.com
Organizational Change Management Lead	Mindy Paine IRL Consulting USA One Galleria Tower 13355 Noel Road, 21 st Floor Dallas, Texas 75240 Phone Number: (214) 724-1266 Email Address: mpaine@irlconsultingusa.com
System Interface Developer	Swapnil Brahmbhatt ETAN Industries, LLC One Galleria Tower, 13355 Noel Road, 21 st Floor Dallas, Texas 75240 Phone Number: (201) 682-8637 Email Address: sbrahmbhatt@etanindustries.com
Testing Manager	Rhea DeBaets ETAN Industries, LLC 505 Consumers Road North York, ON M2J 4A2, Canada Phone Number: (647) 444-5178 Email Address: rdebaets@etantolling.com

SOW No. 2 – Operations and Maintenance
Washington State Department of Transportation:

SOW No. 2 Project Manager	Tyler Patterson Washington State Department of Transportation 401 2nd Avenue South, Suite 300 Seattle, WA 98104 Phone Number: (206) 716-1134 Email Address: PatterT@wsdot.wa.gov
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ETAN Industries:

Project Executive:	Drew Clarke ETAN Industries One Galleria Tower 13355 Noel Road, 21 st Floor Dallas, Texas 75240 Phone Number: (917) 686-2814 Email Address: dclarke@etantolling.com
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BOS Support Team Project Leader	Name Company Name Company Street Address City, State, Zip Phone Number: Email Address:
Functional Lead	Name Company Name Company Street Address City, State, Zip Phone Number: Email Address:
Lead Developer	Name Company Name Company Street Address City, State, Zip Phone Number: Email Address:
System Engineer	Name Company Name Company Street Address City, State, Zip Phone Number: Email Address: